

SENATE BILL No. 292

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-5-4; IC 3-6; IC 3-8; IC 3-9; IC 3-10; IC 3-11; IC 3-11.5-5-14; IC 3-12; IC 3-13; IC 3-14-2-1; IC 36-2-9-9; IC 36-5-1-10.1.

Synopsis: Various election law matters. Makes the following changes in election law: (1) Restates county reimbursement procedures for attending the annual election administrators conference. (2) Provides that a person who is a candidate for elected office may not perform any work or provide any services regarding the maintenance and operation of voting systems. Extends the current law prohibiting a county election board from employing a candidate for elected office to employees of the county boards of elections and registration in Lake and Tippecanoe counties. (3) Makes procedural changes concerning small town elections. (4) Permits the election commission or a county election board to dissolve a committee without being required as part of the dissolution (as under current law) to waive outstanding civil penalties previously imposed on the committee. Specifies that the chairman or treasurer of the committee remains liable for any committee debts, notwithstanding the dissolution of the committee. (5) Specifies the number of ballot cards that must be made available to voters who are 17 years of age in a primary and to voters who wish to vote in school board elections only or on a public question only at a primary. (6) Establishes procedures for conducting a special election for United States Representative in conformity with a federal law applicable when there are more than 100 vacancies. (7) Provides for special elections when a vacancy exists in the general assembly in an office formerly held by a person elected as an independent candidate or as the candidate of a minor political party. (8) Changes several dates concerning the certification of ballot questions and devices to conform
(Continued next page)

Effective: Upon passage; July 1, 2007.

Landske, Lawson C

January 11, 2007, read first time and referred to Committee on Local Government and Elections.



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to the date in current law for the certification of candidates. (9) Revises precinct boundary change procedures. (10) Adds provisions concerning ballot instructions concerning overvoting and when spaces for write-ins are not required on electronic voting systems. (11) Provides that the voting system technical oversight program account is nonreverting and that voting system application fees are to be deposited in the account. Permits the account to be used for voting system statute enforcement. Continuously appropriates money in the account. (12) Specifies certain absentee ballot procedures. (13) Restates the maximum amount of a cash deposit or bond in a local recount proceeding. (14) Amends provisions concerning candidate ballot vacancy procedures. (15) Provides that a person who pays or accepts property to obtain signatures on a petition for ballot access commits a Class D felony if certain conditions exist. (16) Updates references to federal law. (17) Repeals obsolete references to certificates of election issued by the county auditor, paper ballots, and special polling places.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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SENATE BILL No. 292

A BILL FOR AN ACT to amend the Indiana Code concerning elections and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-5-4-1.9, AS ADDED BY P.L.164-2006,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 1.9. **(a) This section does not apply to a
4 delinquent campaign finance filing received under IC 3-9.**

5 **(b) This section does not apply to an application for voter
6 registration received while registration is closed under IC 3-7.**

7 **(c)** Except as otherwise provided in this title, the election division,
8 an election board, a circuit court clerk, a county voter registration
9 office, or any other official responsible for receiving a filing under this
10 title may not receive a filing that is offered to be filed after a deadline
11 for the filing provided by this title.

12 SECTION 2. IC 3-5-4-7, AS AMENDED BY P.L.230-2005,
13 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 UPON PASSAGE]: Sec. 7. Except as otherwise provided in this title,
15 a reference to a federal statute or regulation in this title is a reference



to the statute or regulation as in effect January 1, ~~2005~~ **2007**.

SECTION 3. IC 3-6-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) After the state chairman of a political party files a statement with the election division certifying that the party's name has been changed in accordance with all applicable party rules, a political party shall be known by the political party's new name, and the party has all the rights it had under its former name.

(b) If the state chairman of a political party files a statement under subsection (a) after the printing of ballots for use at an election conducted under this title has begun, ~~the election division or the~~ election board responsible for printing the ballots is not required to alter the ballots to state the new name of the political party.

SECTION 4. IC 3-6-4.2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) Each year in which a general or municipal election is held, the election division shall call a meeting of all the members of the county election boards and the boards of registration to instruct them as to their duties under this title and federal law (including HAVA and NVRA). The election division may, but is not required to, call a meeting under this section during a year in which a general or a municipal election is not held.

(b) Each circuit court clerk shall attend a meeting called by the election division under this section.

(c) The co-directors of the election division shall set the time and place of the instructional meeting. In years in which a primary election is held, the election division:

- (1) may conduct the meeting before the first day of the year; and
- (2) shall conduct the meeting before primary election day.

The instructional meeting may not last for more than two (2) days.

(d) Each member of a county election board or board of registration and an individual who has been elected or selected to serve as circuit court clerk but has not yet begun serving in that office is entitled to receive all of the following **from the county general fund without appropriation**:

- (1) A per diem of twenty-four dollars (\$24) for attending the instructional meeting called by the election division under this section.
- (2) A mileage allowance at the state rate for the distance necessarily traveled in going and returning from the place of the instructional meeting called by the election division under this section.
- (3) Reimbursement for the payment of the instructional meeting

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1 registration fee. from the county general fund without
2 appropriation.

3 (4) An allowance for lodging for each night preceding conference
4 attendance equal to the lodging allowance provided to state
5 employees in travel status.

6 SECTION 5. IC 3-6-5-24 IS AMENDED TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2007]: Sec. 24. A person who is a candidate for
8 elected office may not: ~~be~~:

9 (1) ~~be~~ appointed as a deputy election commissioner; ~~or~~

10 (2) ~~be~~ employed by a county election board; ~~or~~

11 (3) **perform any work or provide any services to the county**
12 **election board regarding the maintenance or operation of the**
13 **county's voting systems.**

14 If a deputy election commissioner or employee of a county election
15 board becomes a candidate for elected office, the person may not
16 continue to serve as a deputy election commissioner or employee of a
17 county election board, **or perform any work or provide any services**
18 **to the county election board regarding the maintenance or**
19 **operation of the county's voting systems.**

20 SECTION 6. IC 3-6-5.2-7 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The board may
22 vest day to day operations in a director of the board and in an assistant
23 director of the board.

24 (b) The director of the board is appointed by the county chairman of
25 the political party whose nominee received the highest number of votes
26 in the county for secretary of state in the last election.

27 (c) The assistant director of the board is appointed by the county
28 chairman of the political party whose nominee received the second
29 highest number of votes in the county for secretary of state in the last
30 election.

31 (d) The assistant director shall receive an annual salary of not less
32 than two thousand dollars (\$2,000) less than the salary of the director.

33 (e) The board shall establish the number and compensation of the
34 employees of the board. The county chairman of each of the major
35 political parties in the county shall appoint one-half (1/2) of the board
36 employees. The director, the assistant director, and the board
37 employees serve at the pleasure of their respective appointing
38 authorities.

39 (f) **A person who is a candidate for elected office may not:**

40 (1) **be appointed as a deputy election commissioner;**

41 (2) **be employed by a county election board; or**

42 (3) **perform any work or provide any services to the county**

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election board regarding the maintenance or operation of the county's voting systems.

(g) If a deputy election commissioner or employee of a county election board becomes a candidate for elected office, the person may not:

(1) continue to serve as a deputy election commissioner or an employee of a county election board; or

(2) perform any work or provide any services to the county election board regarding the maintenance or operation of the county's voting systems.

SECTION 7. IC 3-6-5.4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The board shall appoint employees to perform the board's election and registration duties under this title.

(b) The board may appoint an individual as an employee only upon the nomination by the county chairman of one (1) of the major political parties of the county.

(c) The staff of the board must be equally divided between the major political parties of the county.

(d) The board may designate and assign an employee to election or registration duties subject to the consent of the county chairman that nominated the employee to be a member of the staff.

(e) An employee of the board may be cross-trained and assist other employees of the board with other duties subject to the direction of the board.

(f) The board shall make final determinations with respect to the duties and assignments of employees of the board.

(g) A person who is a candidate for elected office may not:

(1) be appointed as a deputy election commissioner;

(2) be employed by a county election board; or

(3) perform any work or provide any services to the county election board regarding the maintenance or operation of the county's voting systems.

(h) If a deputy election commissioner or an employee of a county election board becomes a candidate for elected office, the person may not:

(1) continue to serve as a deputy election commissioner or employee of a county election board; or

(2) perform any work or provide any services to the county election board regarding the maintenance or operation of the county's voting systems.

SECTION 8. IC 3-8-5-14 IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2007]: Sec. 14. ~~(a)~~ A certificate of nomination **executed under section 13 of this chapter** must be signed before a person authorized to administer oaths and certify the following information:

(1) The name of the party, the town where the convention was held, the date of the convention, and the date of the town election.

~~(2) The name, residence, and office of each candidate that was nominated at the convention.~~

~~(3) That each candidate for town council resides in the ward for which the person is a candidate.~~

~~(4) That each candidate is a registered voter of the town and legally qualified to hold the office for which the person is a candidate.~~

~~(5)~~ (2) The title of the party that the candidates represent and the device by which the candidates may be designated on the ballots (a symbol to designate the party).

~~(6)~~ (3) The signature and residence address of the presiding officer and secretary of the convention.

~~(b) The certificate of nomination must be filed with the circuit court clerk of the county where the convention was held.~~

SECTION 9. IC 3-8-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) A petition of nomination for an office filed under section 10 of this chapter must be filed with and, except as provided in subsection (d), certified by the person with whom a declaration of candidacy must be filed under IC 3-8-2.

(b) The petition of nomination must be accompanied by the following:

(1) The candidate's written consent to become a candidate.

(2) A statement that the candidate:

(A) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; and

(B) agrees to comply with the provisions of IC 3-9.

The candidate must separately sign the statement required by this subdivision.

(3) If the candidate is subject to IC 3-9-1-5, a statement by the candidate that the candidate has filed a campaign finance statement of organization under IC 3-9-1-5 or is aware that the candidate may be required to file a campaign finance statement of organization not later than noon seven (7) days after the final date for filing a petition for nomination under section 10 of this chapter.

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(4) If the candidate is subject to IC 3-9-1-5.5, a statement by the candidate that the candidate is aware of the requirement to file a campaign finance statement of organization under IC 3-9 after the first of either of the following occurs:

(A) The candidate receives more than five hundred dollars (\$500) in contributions.

(B) The candidate makes more than five hundred dollars (\$500) in expenditures.

(5) A statement indicating whether or not each candidate:

(A) has been a candidate for state or local office in a previous primary or general election; and

(B) has filed all reports required by IC 3-9-5-10 for all previous candidacies.

(6) A statement that each candidate is legally qualified to hold the office that the candidate seeks, including any applicable residency requirements and restrictions on service due to a criminal conviction.

(7) If the petition is filed with the secretary of state for an office not elected by the electorate of the whole state, a statement signed by the circuit court clerk of each county in the election district of the office sought by the individual.

(8) Any statement of economic interests required under IC 3-8-1-33.

(c) The statement required under subsection (b)(7) must:

(1) be certified by each circuit court clerk; and

(2) indicate the number of votes cast for secretary of state:

(A) at the last election for secretary of state; and

(B) in the part of the county included in the election district of the office sought by the individual filing the petition.

(d) The person with whom the petition of nomination must be filed under subsection (a) shall:

(1) determine whether a sufficient number of signatures as required by section 3 of this chapter have been obtained; and

(2) do one (1) of the following:

(A) If the petition includes a sufficient number of signatures, certify the petition.

(B) If the petition has an insufficient number of signatures, deny the certification.

(e) The secretary of state shall, by noon ~~August 20~~ **of the date specified under IC 3-8-7-16 for the certification of candidates and public questions by the election division:**

(1) certify; or

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(2) deny certification under subsection (d) to;
each petition of nomination filed in the secretary of state's office to the
appropriate county.

(f) The commission shall provide that the form of a petition of
nomination includes the following information near the separate
signature required by subsection (b)(2):

(1) The dates for filing campaign finance reports under IC 3-9.

(2) The penalties for late filing of campaign finance reports under
IC 3-9.

(g) A candidate's consent to become a candidate must include a
statement that the candidate requests the name on the candidate's voter
registration record be the same as the name the candidate uses on the
consent to become a candidate. If there is a difference between the
name on the candidate's consent to become a candidate and the name
on the candidate's voter registration record, the officer with whom the
consent to become a candidate is filed shall forward the information to
the voter registration officer of the appropriate county as required by
IC 3-5-7-6(e). The voter registration officer of the appropriate county
shall change the name on the candidate's voter registration record to be
the same as the name on the candidate's consent to become a candidate.

(h) If the person with whom the petition was filed denies
certification under subsection (d), the person shall notify the candidate
immediately by certified mail.

(i) A candidate may contest the denial of certification under
subsection (d) based on:

(1) the circuit court clerk's or board of registration's failure to
certify, under section 8 of this chapter, qualified petitioners; or

(2) the determination described in subsection (d)(1);

using the procedure in IC 3-8-1-2 and section 14 of this chapter that
applies to questions concerning the validity of a petition of nomination.

SECTION 10. IC 3-8-7-11, AS AMENDED BY P.L.230-2005,
SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
UPON PASSAGE]: Sec. 11. (a) Except as provided in subsection (f),
if a political party has filed a statement with the election division (or
any of its predecessors) that the device selected by the political party
be used to designate the candidates of the political party on the ballot
for all elections throughout the state, the device must be used until:

(1) the device is changed in accordance with party rules; and

(2) a statement concerning the use of the new device is filed with
the election division.

(b) Except as provided in subsection (c), the device may be any
appropriate symbol.

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(c) A political party or an independent candidate may not use **any of the following** as a device:

- (1) A symbol that has previously been filed by a political party or candidate with the election division (or any of its predecessors).
- (2) The coat of arms or seal of the state or of the United States.
- (3) The national or state flag. ~~or~~
- (4) Any other emblem common to the people.

(d) Not later than noon ~~August 20, before each~~ **seventy-four (74) days before a** general or municipal election, the election division shall provide each county election board with a camera-ready copy of the device under which the candidates of the political party or the petitioner are to be listed so that ballots may be prepared using the best possible reproduction of the device.

(e) This subsection applies to a candidate or political party whose device is not filed with the election division under subsection (a) and is to be printed only on ballots to identify candidates for election to a local office. Not later than noon ~~August 20, before each~~ **seventy-four (74) days before a general or municipal election**, the chairman of the political party or the petitioner of nomination shall file a camera-ready copy of the device under which the candidates of the political party or the petitioner are to be listed with the county election board of each county in which the name of the candidate or party will be placed on the ballot. The county election board shall provide the camera-ready copy of the device to the town election board of a town located wholly or partially within the county upon request by the town election board.

(f) If a copy of the device is not filed in accordance with subsection (a) or (e), or unless a device is designated in accordance with section 26 or 27 of this chapter, the county election board or town election board is not required to use any device to designate the list of candidates.

(g) If a device is filed with the election division or an election board after the commencement of printing of ballots for use at an election conducted under this title, the election board responsible for printing the ballots is not required to alter the ballots to include the device filed under this subsection.

SECTION 11. IC 3-8-7-25.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25.5. (a) This section does not apply to the change of a candidate's name that occurs after absentee ballots have been printed bearing the candidate's name.

(b) A candidate who:

(1) is:

(A) nominated for election; or

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1 (B) a candidate for nomination; and
 2 (2) changed the candidate's legal name after:
 3 (A) the candidate has been nominated; or
 4 (B) the candidate has become a candidate for nomination;
 5 shall file a statement setting forth the former and current legal name of
 6 the candidate with the office where a declaration of candidacy or
 7 certificate of nomination for the office is required to be filed. If the
 8 final date and hour has not passed for filing a declaration of candidacy,
 9 consent for nomination, or declaration of intent to be a write-in
 10 candidate, the candidate must file the request for a change of name on
 11 the form prescribed by the commission for the declaration or consent.

12 (c) The statement filed under subsection (b) must also indicate the
 13 following:

14 (1) That the candidate has previously filed a change of name
 15 request with a county voter registration office so that the name set
 16 forth in the statement is identical to the candidate's name on the
 17 county voter registration record.

18 (2) How the candidate's legal name was changed.

19 (d) Upon the filing of the statement, ~~the election division~~ and each
 20 county election board shall print the candidate's legal name on the
 21 ballot as set forth in the statement.

22 SECTION 12. IC 3-9-1-12 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) A
 24 committee may disband at any time in the manner prescribed by this
 25 section.

26 (b) The commission or a county election board may administratively
 27 disband a committee in the manner prescribed by this section.

28 (c) The commission has exclusive jurisdiction to disband any of the
 29 following:

30 (1) A candidate's committee for state office.

31 (2) A candidate's committee for legislative office.

32 (3) A legislative caucus committee.

33 (4) A political action committee that has filed a statement or
 34 report with the election division.

35 (5) A regular party committee that has filed a statement or report
 36 with the election division.

37 (d) A county election board has exclusive jurisdiction to disband
 38 any of the following:

39 (1) A candidate's committee for a local office.

40 (2) A candidate's committee for a school board office.

41 (3) A political action committee that has filed a statement or
 42 report with the election board, unless the political action

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committee has also filed a report with the election division.

(4) A regular party committee that has filed a statement or report with the election board, unless the regular party committee has also filed a report with the election division.

(e) The commission or a county election board may administratively disband a committee in the following manner:

(1) Not later than the last Friday of January of each year, the election division or county election board shall review the list of committees that have filed statements of organization with the division or board under this article.

(2) If the election division or county election board determines both of the following, the election division or county election board may begin a proceeding before the commission or board to administratively disband the committee:

(A) The committee has not filed any report of expenditures during the previous three (3) calendar years.

(B) The committee last reported cash on hand in an amount that does not exceed one thousand dollars (\$1,000), if the committee filed a report under this article.

(3) The election division or county election board shall provide notice of the proceeding by certified mail to the last known address of the chairman and treasurer of the committee.

(4) The commission or board may issue an order administratively dissolving the committee ~~and waiving any outstanding civil penalty previously imposed by the commission or board~~, if the commission or board makes the following findings:

(A) There is no evidence that the committee continues to receive contributions, make expenditures, or otherwise function as a committee.

~~(B) The prudent use of public resources makes further efforts to collect any outstanding civil penalty imposed against the committee wasteful or unjust.~~

~~(C)~~ (B) According to the best evidence available to the commission or board, the dissolution of the committee will not impair any contract or impede the collection of a debt or judgment by any person.

(5) If the commission or board administratively dissolves a committee under subdivision (4), the commission or board may also waive any outstanding civil penalty previously imposed by the commission or board against the committee, if the commission or board finds that the prudent use of public resources makes further efforts to collect any

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outstanding civil penalty imposed against the committee to be wasteful or unjust.

~~(5)~~ (6) The election division shall arrange for the publication in the Indiana Register of an order administratively disbanding a committee. A county election board shall publish a notice under IC 5-3-1 stating that the board has disbanded a committee under this subsection. The notice must state the date of the order and the name of the committee, but the board is not required to publish the text of the order.

~~(6)~~ (7) An order issued under this subsection takes effect immediately upon its adoption, unless otherwise specified in the order.

(f) If the chairman or treasurer of a committee wishes to disband the committee, the committee must do either of the following:

(1) Give written notification of the dissolution and transfer a surplus of contributions less expenditures to any one (1) or a combination of the following:

(A) One (1) or more regular party committees.

(B) One (1) or more candidate's committees.

(C) The election division.

(D) An organization exempt from federal income taxation under Section 501 of the Internal Revenue Code.

(E) Contributors to the committee, on a pro rata basis.

(2) Use the surplus in any other manner permitted under IC 3-9-3-4.

(g) Except as provided in subsection (e) concerning the waiver of civil penalties, a dissolution or transfer of funds does not relieve the committee or the committee's members from **any**:

(1) civil liability, including the liability of the committee's chairman or treasurer for the payment of any debts incurred by or on behalf of the committee; or

(2) criminal liability.

SECTION 13. IC 3-9-5-22, AS ADDED BY P.L.221-2005, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) This section applies only to a large contribution that is received by a candidate for a state office, the candidate's committee, or the treasurer of the candidate's committee.

(b) As used in this section, "election" refers to any of the following:

(1) For a candidate nominated at a primary election, the primary election.

(2) For a candidate nominated at a state convention, the state convention.

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(3) A general election.

(c) As used in this section, "large contribution" means either of the following:

(1) Contributions:

(A) that total at least one thousand dollars (\$1,000); and

(B) that are received

(i) after the end of a reporting period and before the deadline for the candidate's committee to file a report under section 6 of this chapter. ~~and~~

(ii) ~~not less than forty-eight (48) hours before an election.~~

(2) A single contribution that is at least ten thousand dollars (\$10,000) that is received at any time.

(d) The treasurer of a candidate's committee shall file a supplemental large contribution report with the election division not later than:

(1) forty-eight (48) hours after a contribution described by subsection (c)(1) is received; or

(2) noon seven (7) days after a contribution described by subsection (c)(2) is received.

(e) A report filed under this section may be filed by ~~facsimile transmission or~~ as an electronic report when the requirements of IC 3-9-4 or this chapter have been met. A report required by subsection

(d) must contain the following information for each large contribution:

(1) The name of the person making the contribution.

(2) The address of the person making the contribution.

(3) If the person making the contribution is an individual, the individual's occupation.

(4) The total amount of the contribution.

(5) The dates and times the contributions making up the large contribution described in subsection (c)(1) or a large contribution described in subsection (c)(2) were received by the treasurer, the candidate, or the candidate's committee.

(f) The commission shall prescribe the form for the report required by this section.

SECTION 14. IC 3-10-1-12, AS AMENDED BY P.L.230-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) In those precincts where ballot card voting systems are to be used, each county election board shall prepare and distribute separate primary ballots for each political party participating in a primary election at least equal in number to one hundred percent (100%) of the number of votes cast for the candidate of the party who received the greatest number of votes cast in the

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precinct at the last general election.

(b) In those precincts where ballot card voting systems are to be used, each county election board shall prepare and distribute separate ballots for voters who wish to vote in an election for a school board office or in an election on a public question being conducted on the same election day as the primary election but who do not wish to vote in the primary election for the nomination of candidates of a political party. Unless the county election board, by unanimous vote of its entire membership, adopts an order to provide and distribute a specific and fewer number of these ballots in a precinct, the county shall provide and distribute the number of ballots for these voters in each precinct required under IC 3-11-3-11(3).

(c) In those precincts where ballot card voting systems are to be used, each county election board shall prepare and distribute separate ballots for voters who under IC 3-7-13-3 are not eligible to vote in an election for an office or in an election on a public question being conducted on the same election day as the primary election, but who wish to vote in the primary for candidates for nomination by a political party. Unless the county election board, by unanimous vote of its entire membership, adopts an order to provide a specific and fewer number of these ballots in a precinct, the county shall provide and distribute a number of ballots at least equal in number to one hundred percent (100%) of the number of voters described by IC 3-7-13-3 registered in the precinct.

~~(b)~~ (d) In those precincts where electronic voting systems are to be used, the board shall determine the number of ballots required to be printed and furnished to the precincts for emergency purposes only.

SECTION 15. IC 3-10-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Whenever a proposed state constitutional amendment or other public question is submitted by the general assembly under Article 16 of the Constitution of the State of Indiana to the electorate of the state for a popular vote, the election division shall certify the public question to the county election board of each county.

(b) If the vote is to occur at a general election, the election division shall certify by noon ~~August 20 before the election~~ of the date specified under IC 3-8-7-16 for the election division to certify candidates and other public questions for the general election ballot. If a special election is to be held, the election division shall certify at least thirty (30) days before the election. Each county election board shall publish notice of the public question in accordance with

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1 IC 5-3-1.

2 SECTION 16. IC 3-10-8-1, AS AMENDED BY P.L.164-2006,
3 SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 1. A special election shall be held in the
5 following cases:

6 (1) Whenever two (2) or more candidates for a federal, state,
7 legislative, circuit, or school board office receive the highest and
8 an equal number of votes for the office, except as provided in
9 Article 5, Section 5 of the Constitution of the State of Indiana or
10 in IC 20.

11 (2) Whenever a vacancy occurs in the office of United States
12 Senator, as provided in IC 3-13-3-1.

13 (3) Whenever a vacancy occurs in the office of United States
14 Representative, unless the vacancy:

15 (A) occurs less than thirty (30) days before a general election;
16 or

17 (B) exists following an announcement of extraordinary
18 circumstances by the Speaker of the House of
19 Representatives of the United States under 2 U.S.C. 8(b),
20 if an election for the office would otherwise be conducted
21 during the period described by 2 U.S.C. 8(b)(2)(A) or 2
22 U.S.C. 8(b)(2)(B).

23 (4) Whenever a vacancy occurs in any local office the filling of
24 which is not otherwise provided by law.

25 (5) Whenever required by law for a public question.

26 (6) Whenever ordered by a court under IC 3-12-8-17 or the state
27 recount commission under IC 3-12-11-18.

28 (7) Whenever required under IC 3-13-5 to fill a vacancy in a
29 legislative office unless the vacancy occurs less than thirty (30)
30 days before a general election.

31 SECTION 17. IC 3-10-8-7.5 IS ADDED TO THE INDIANA CODE
32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
33 UPON PASSAGE]: Sec. 7.5. (a) This section applies to a special
34 election to fill one (1) or more vacancies in the office of United
35 States Representative under 2 U.S.C. 8(b).

36 (b) A special election conducted under this section shall be
37 governed by other provisions of this title as far as applicable.

38 (c) A political party entitled to fill a candidate vacancy under
39 IC 3-13-2 may nominate a candidate for election to the office under
40 IC 3-13-2-3.

41 (d) If a candidate does not intend to affiliate with a political
42 party described by subsection (c), the candidate may:

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(1) be nominated as an independent or candidate of a political party by petition in accordance with IC 3-8-6; or

(2) file a declaration of intent to be a write-in candidate under IC 3-8-2-4(b).

(e) A certificate of candidate selection under IC 3-13-2-8, a petition of nomination, or a declaration of intent to be a write-in candidate must be filed with the election division not later than noon thirty-five (35) days before the special election is to be conducted.

(f) A candidate may file a notice of withdrawal with the election division not later than noon thirty-three (33) days before the special election is to be conducted.

(g) As required under 2 U.S.C. 8(b)(5)(B), and notwithstanding IC 3-11-10-14, an absentee ballot cast by an absent uniformed services voter or an overseas voter may be received by a county election board up to forty-five (45) days after the absentee ballot was transmitted to the voter.

(h) Notwithstanding IC 3-12-5-8(a), if the ballot is determined by the county election board to be otherwise valid, the circuit court clerk shall file an amendment to the certified statement previously filed under IC 3-12-5-6 with the election division not later than noon seven (7) days following the determination of the validity of the ballot. Notwithstanding IC 3-12-5-9, the election division, the secretary of state, and the governor shall prepare, execute, and transmit a replacement certificate of election if the amendment filed under this subsection results in a different candidate receiving the highest number of votes for the office.

SECTION 18. IC 3-11-1.5-10.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10.7. If a conflict exists between the map of a precinct and the description of the boundaries of a precinct submitted by a county and approved under this chapter, the precinct boundary is the description of the boundaries of the precinct, rather than the map of the precinct, to the extent of the conflict between the map and the description.**

SECTION 19. IC 3-11-1.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16. (a) If a proposed precinct establishment order includes a legal description of a precinct with a boundary that follows the boundary of a municipality, state legislative district, or municipal legislative district, the order must include the following:**

(1) A description in metes and bounds that identifies the boundary

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as that of a municipality, state legislative district, or municipal legislative district.

(2) A notation on the map of the precinct indicating that the boundary is that of a municipality, state legislative district, or municipal legislative district.

(b) If a proposed precinct establishment order described by section 9 of this chapter includes a legal description of a boundary that follows a visible feature, the order must include a description in metes and bounds **or a shape file** that identifies the visible feature that forms the boundary.

SECTION 20. IC 3-11-2-8, AS AMENDED BY P.L.221-2005, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) All written or printed instructions must be at the top of the ballot immediately below the statement required by section 7 of this chapter.

(b) No other instructions or writing may appear at any other place on the ballot, including the ballot for federal and state offices, except as specified by this title.

(c) The instructions must be in English and any other language that the board considers necessary, clear, concise, and written so that a voter will not be confused about the effect of the voter's voting mark and vote.

(d) This subsection applies to a ballot that is cast using a voting system that does not comply with 42 U.S.C. 15481(a)(1)(A)(iii) by:

- (1) notifying a voter who votes for more than one (1) candidate for a single office that the voter has selected more than one (1) candidate for a single office on the ballot;
- (2) notifying the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and
- (3) providing the voter with an opportunity to correct the ballot before the ballot is cast.

A ballot described by this subsection must include an instruction that reads substantially as follows:

"OVERVOTE WARNING: If you cast more than one (1) vote for candidates for the same office (or more than the number of votes allowed to be cast for an office to which two (2) or more persons can be elected), you have overvoted. This means that none of your votes for that office will be counted. If you overvoted by mistake, ask the poll workers for a replacement ballot. Do not try to erase or otherwise mark your ballot to correct an overvote. If you try to correct your original ballot by erasing or

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1 **marking, your entire ballot may not be counted."**

2 SECTION 21. IC 3-11-3-29 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. (a) If a new
4 candidate is appointed or selected under IC 3-13-1 or IC 3-13-2 after
5 the printing of ballots and before the election, the ~~election division or~~
6 ~~the~~ election board may print ballots containing the name of the new
7 candidate.

8 (b) If the ~~election division or the~~ election board determines that
9 printing ballots under subsection (a) would be uneconomical or
10 impractical, the chairman or committee that made the appointment or
11 selection shall provide to the ~~division or the~~ election board the number
12 of pasters the ~~division or the~~ board determines to be necessary for all
13 ballots to reflect the appointment or selection. Pastors may not be given
14 to or received by any person except the ~~co-directors of the election~~
15 ~~division (or the~~ election board and the board's chairman.

16 (c) If a candidate entitled to be placed on the ballot changes the
17 candidate's legal name after the printing of ballots and before the
18 election, the candidate who has changed the candidate's legal name
19 shall provide to the ~~election division or the~~ election board the number
20 of pasters the ~~division or the~~ board determines to be necessary for all
21 ballots to reflect the change of name. If a candidate declines to do so
22 under this subsection, the ~~division or the~~ board is not required to
23 reprint ballots to reflect the change of legal name.

24 SECTION 22. IC 3-11-4-2, AS AMENDED BY P.L.103-2005,
25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 UPON PASSAGE]: Sec. 2. (a) A voter who wants to vote by absentee
27 ballot must apply to the county election board for an official absentee
28 ballot. Except as provided in subsection (b), the voter must sign the
29 absentee ballot application.

30 (b) If a voter with disabilities is unable to **complete and** sign the
31 absentee ballot application and the voter has not designated an
32 individual to serve as attorney in fact for the voter, the county election
33 board may designate an individual to **complete each part of the**
34 **application and** sign the application on behalf of the voter. If an
35 individual ~~applies files an application~~ for an absentee ballot as the
36 properly authorized attorney in fact for a voter, the attorney in fact must
37 attach a copy of the power of attorney to the application.

38 (c) A person may provide an individual with an application for an
39 absentee ballot with the following information already printed or
40 otherwise set forth on the application when provided to the individual:

- 41 (1) The name of the individual.
42 (2) The voter registration address of the individual.

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(3) The mailing address of the individual.

(4) The date of birth of the individual.

(5) The voter identification number of the individual.

(d) A person may not provide an individual with an application for an absentee ballot with the following information already printed or otherwise set forth on the application when provided to the individual:

(1) The address to which the absentee ballot would be mailed, if different from the voter registration address of the individual.

(2) In a primary election, the major political party ballot requested by the individual.

(3) In a primary or general election, the types of absentee ballots requested by the individual.

(4) The reason why the individual is entitled to vote an absentee ballot:

(A) by mail; or

(B) before an absentee voter board (other than an absentee voter board located in the office of the circuit court clerk or a satellite office);

in accordance with ~~IC 3-11-4-18~~, **section 18 of this chapter**, IC 3-11-10-24, or IC 3-11-10-25.

(e) If the county election board determines that an absentee ballot application does not comply with subsection (d), the board shall deny the application under section 17.5 of this chapter.

(f) A person who assists an individual in completing any information described in subsection (d) on an absentee ballot application shall state under the penalties for perjury the following information on the application:

(1) The full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the person providing the assistance.

(2) The date this assistance was provided.

(3) That the person providing the assistance has complied with Indiana laws governing the submission of absentee ballot applications.

(4) That the person has no knowledge or reason to believe that the individual submitting the application:

(A) is ineligible to vote or to cast an absentee ballot; or

(B) did not properly complete and sign the application.

(g) This subsection does not apply to an employee of the United States Postal Service or a bonded courier company acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company. A person who receives a completed

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absentee ballot application from the individual who has applied for the absentee ballot shall file the application with the appropriate county election board not later than:

- (1) noon seven (7) days after the person receives the application; or
- (2) the deadline set by Indiana law for filing the application with the board;

whichever occurs first.

(h) This subsection does not apply to an employee of the United States Postal Service or a bonded courier company acting in the individual's capacity as an employee of the United States Postal Service or a bonded courier company. A person filing an absentee ballot application, other than the person's own absentee ballot application, must sign an affidavit at the time of filing the application. The affidavit must be in a form prescribed by the commission. The form must include the following:

- (1) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the person submitting the application.
- (2) A statement that the person filing the affidavit has complied with Indiana laws governing the submission of absentee ballot applications.
- (3) A statement that the person has no knowledge or reason to believe that the individual whose application is to be filed:
 - (A) is ineligible to vote or to cast an absentee ballot; or
 - (B) did not properly complete and sign the application.
- (4) A statement that the person is executing the affidavit under the penalties of perjury.
- (5) A statement setting forth the penalties for perjury.

(i) The county election board shall record the date and time of the filing of the affidavit.

SECTION 23. IC 3-11-4-3, AS AMENDED BY P.L.103-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Except as provided in section 6 of this chapter, an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of elections and registration) not earlier than ninety (90) days before election day nor later than the following:

- (1) Noon on election day if the voter registers to vote under IC 3-7-36-14.
- (2) Noon on the day before election day if the voter completes the application in the office of the circuit court clerk **and votes an**

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absentee ballot under IC 3-11-10-26 or is an absent uniformed services voter or overseas voter who requests that the ballot be transmitted by fax under section 6(h) of this chapter.

(3) Noon on the day before election day if:

(A) the application is a mailed, transmitted by fax, or hand delivered application from a confined voter or voter caring for a confined person; and

(B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board **under IC 3-11-10-25.**

(4) Midnight on the eighth day before election day if the application:

(A) is a mailed application; ~~or~~

(B) was transmitted by fax; **or**

(C) was hand delivered;

from other voters **who request to vote by mail under IC 3-11-10-24.**

SECTION 24. IC 3-11-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Applications may be made:

(1) in person;

(2) by fax transmission; ~~or~~

(3) by mail; **or**

(4) by electronic mail with a scanned image of the application and signature of the applicant, if transmitted by an overseas voter acting under section 6 of this chapter;

on application forms furnished by the county election board or approved by the commission.

(b) Application forms shall:

~~(1) be furnished to all central committees in the county no later than:~~

~~(A) June 15, for a general election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the primary election; or~~

~~(B) January 15, for a primary election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the general election;~~

~~(2) (1) be:~~

(A) mailed; ~~or~~

(B) transmitted by fax; **or**

(C) transmitted by electronic mail with a scanned image of the application;

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upon request, to a voter applying by mail, by telephone, **by electronic mail**, or by fax; and

~~(3)~~ **(2)** be delivered to a voter in person who applies at the circuit court clerk's office.

(c) The county election board shall:

(1) accept; and

(2) transmit;

applications for absentee ballots under subsection (a) by fax **or electronic mail, if the county election board has access to a fax machine or electronic mail**. A county election board shall accept an application for an absentee ballot transmitted by fax even though the application is delivered to the county election board by a person other than the person submitting the application.

SECTION 25. IC 3-11-4-5.1, AS AMENDED BY P.L.1-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.1. (a) The commission shall prescribe the form of an application for an absentee ballot.

(b) This subsection does not apply to the form for an absentee ballot application to be submitted by an absent uniformed services voter or overseas voter that contains a standardized oath for those voters. The form of the application for an absentee ballot must do all of the following:

(1) Require the applicant to swear to or affirm under the penalties of perjury that all of the information set forth on the application is true to the best of the applicant's knowledge and belief.

(2) Require a person who assisted with the completion of the application to swear to or affirm under the penalties of perjury the statements set forth in section 2(f) of this chapter.

(3) Set forth the penalties for perjury.

(c) The form prescribed by the commission shall require that a voter who:

(1) requests an absentee ballot; and

(2) is eligible to vote in the precinct under IC 3-10-11 or IC 3-10-12;

must include the affidavit required by IC 3-10-11 or a written affirmation described in IC 3-10-12.

(d) This subsection applies after December 31, 2007. The form prescribed by the commission must include a statement that permits an applicant to indicate whether:

(1) the applicant has been certified and is currently a participant in the address confidentiality program under IC 5-26.5-2; and

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(2) the applicant's legal residence is at the address set forth in the applicant's voter registration.

If the applicant confirms these statements, the applicant may indicate the address of the office of the attorney general as the address at which the applicant resides and to which the absentee ballot is to be mailed.

SECTION 26. IC 3-11-4-18, AS AMENDED BY P.L.164-2006, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) If a voter satisfies any of the qualifications described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot by mail, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application.

(b) If the county election board mails an absentee ballot to a voter required to file additional documentation with the county voter registration office before voting by absentee ballot under this chapter, the board shall include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file the additional documentation required under IC 3-7-33-4.5 with the county voter registration office not later than noon on election day for the absentee ballot to be counted as an absentee ballot, and that, if the documentation required under IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the ballot will be processed as a provisional ballot. The commission shall prescribe the form of this notice under IC 3-5-4-8.

(c) Except as provided in section 18.5 of this chapter, the ballot shall be mailed:

- (1) on the day of the receipt of the voter's application; or
- (2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later. **If the election board determines that the county voter registration office has received an application from the applicant for registration at an address within the precinct indicated on the application, and that this application is pending under IC 3-7-33, the ballot shall be mailed in accordance with the applicable deadline set forth in subdivision (1) or (2) after the registration application is approved.**

(d) In addition to the ballot mailed under subsection (c), the county election board shall mail a special absentee ballot for overseas voters.

(e) Except as provided in section 18.5 of this chapter, the ballot described in subsection (d):

- (1) must be mailed:

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- 1 (A) on the day of the receipt of the voter's application; or
 2 (B) not more than five (5) days after the latest date for delivery
 3 of the ballots under section 13(b) of this chapter applicable to
 4 that election;
 5 whichever is later; and
 6 (2) may not be mailed after the absentee ballots described by
 7 section 13(a) of this chapter have been delivered to the circuit
 8 court clerk or the clerk's authorized deputy.
 9 (f) As required by 42 U.S.C. 15481, an election board shall establish
 10 a voter education program (specific to a paper ballot or optical scan
 11 ballot card provided as an absentee ballot under this chapter) to notify
 12 a voter of the effect of casting multiple votes for a single office.
 13 (g) As provided by 42 U.S.C. 15481, when an absentee ballot is
 14 mailed under this section, the mailing must include:
 15 (1) information concerning the effect of casting multiple votes for
 16 an office; and
 17 (2) instructions on how to correct the ballot before the ballot is
 18 cast and counted, including the issuance of replacement ballots.
 19 SECTION 27. IC 3-11-8-2 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A voter shall
 21 vote at the polls for the precinct where the voter resides except when
 22 authorized to vote in another precinct under IC 3-10-10, IC 3-10-11, or
 23 IC 3-10-12. or at a special voting poll under section 6.5 of this chapter.
 24 SECTION 28. IC 3-11-8-3.1 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) A county
 26 executive shall designate the polls for each precinct not less than
 27 twenty-nine (29) days before election day.
 28 (b) The designation of a polling place under this section remains in
 29 effect until:
 30 (1) the location of the polling place is altered by an order of the
 31 county executive or county election board under this chapter; or
 32 (2) a precinct establishment order issued under IC 3-11-1.5:
 33 (A) designates a new polling place location; or
 34 (B) combines the existing precinct with another precinct
 35 established by the order.
 36 (c) The county executive shall then file the report required by
 37 section 6.5 of this chapter concerning polls that are inaccessible to
 38 voters with disabilities.
 39 SECTION 29. IC 3-11-8-3.2 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.2. (a) A county
 41 executive shall give ten (10) days notice of the place of voting in each
 42 precinct by publication in the manner prescribed by IC 5-3-1-4. The

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notice must include the following information:

(1) For each precinct, state whether the polls are located in an accessible facility.

(2) If special polling places are designated under section 6.5 of this chapter:

(A) the location of each special polling place; and

(B) the procedures for elderly voters and voters with disabilities to apply to vote at a special polling place.

(b) If it is necessary to change a place for voting after giving notice, notice of the change shall be given in the same manner. However, except as provided in subsection (c), a change may not be made within two (2) days before an election.

(c) If the county election board determines by a unanimous vote of the board's entire membership that the use of a polling place at an election would be dangerous or impossible, the county election board may order the relocation of the polling place during the final two (2) days before an election. The county election board shall give the best possible notice of this change to news media and the voters of the precinct. If an order is adopted under this subsection, the order expires after the election.

SECTION 30. IC 3-11-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. ~~Except as provided in section 6.5 of this chapter,~~ The county executive shall locate the polls for each precinct in an accessible facility.

SECTION 31. IC 3-11-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. If a county election board (or the absentee voter board in the office of the circuit court clerk) unanimously finds that the signature on a ballot envelope or transmitted affidavit is genuine, the board shall enclose immediately the accepted and unopened ballot envelope together with the voter's application for the absentee ballot in a large or carrier envelope. The envelope shall be securely sealed and endorsed with the ~~name and~~ official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only at the polls on election day while the polls are open."

SECTION 32. IC 3-11-10-14, AS AMENDED BY P.L.198-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. Subject to **IC 3-10-8-7.5** and section 11 of this chapter, absentee ballots received by mail (or by fax or electronic mail under IC 3-11-4-6) after the county election board has started the final delivery of the ballots to the precincts on election day are considered as arriving too late and need not be delivered to the

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1 polls.

2 SECTION 33. IC 3-11-13-31.6 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE UPON PASSAGE]: **Sec. 31.6. Whenever a ballot card**
5 **voting system is used in a precinct and a ballot form prescribed by**
6 **this title refers to a voting mark, the county election board shall**
7 **approve voting instructions indicating that a specific type of**
8 **marking device is employed on the system to indicate a vote.**

9 SECTION 34. IC 3-11-14-3.5, AS ADDED BY P.L.58-2005,
10 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 UPON PASSAGE]: Sec. 3.5. (a) Each county election board shall have
12 the names of all candidates for all elected offices, political party
13 offices, and public questions printed on ballot labels for use in an
14 electronic voting system as provided in this chapter.

15 (b) The county may:

16 (1) print all offices and public questions on a single ballot label;
17 and

18 (2) include a ballot variation code to ensure that the proper
19 version of a ballot label is used within a precinct.

20 (c) Each type of ballot label or paster must be of uniform size and
21 of the same quality and color of paper (except as permitted under
22 IC 3-10-1-17).

23 (d) The nominees of a political party or an independent candidate
24 or independent ticket (described in IC 3-11-2-6) nominated by
25 petitioners must be listed on the ballot label with the name and device
26 set forth on the certification or petition. The circle containing the
27 device may be of any size that permits a voter to readily identify the
28 device. IC 3-11-2-5 applies if the certification or petition does not
29 include a name or device, or if the same device is selected by two (2)
30 or more parties or petitioners.

31 (e) The ballot labels must list the offices on the general election
32 ballot in the order listed in IC 3-11-2-12, IC 3-11-2-12.2,
33 IC 3-11-2-12.5, IC 3-11-2-12.7(b), IC 3-11-2-12.9(a), IC 3-11-2-13(a)
34 through IC 3-11-2-13(c), IC 3-11-2-14(a), and IC 3-11-2-14(d). Each
35 office and public question may have a separate screen, or the offices
36 and public questions may be listed in a continuous column either
37 vertically or horizontally. However, school board offices, public
38 questions concerning the retention of a justice or judge, local
39 nonpartisan judicial offices, and local public questions shall be placed
40 at the beginning of separate columns or pages.

41 (f) The name of each office must be printed in a uniform size in bold
42 type. A statement reading substantially as follows must be placed

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1 immediately below the name of the office and above the name of the
 2 first candidate: "Vote for not more than (insert the number of
 3 candidates to be elected) candidate(s) for this office.".

4 (g) Below the name of the office and the statement required by
 5 subsection (f), the names of the candidates for each office must be
 6 grouped together in the following order:

7 (1) The major political party whose candidate received the highest
 8 number of votes in the county for secretary of state at the last
 9 election is listed first.

10 (2) The major political party whose candidate received the second
 11 highest number of votes in the county for secretary of state is
 12 listed second.

13 (3) All other political parties listed in the order that the parties'
 14 candidates for secretary of state finished in the last election are
 15 listed after the party listed in subdivision (2).

16 (4) If a political party did not have a candidate for secretary of
 17 state in the last election or a nominee is an independent candidate
 18 or independent ticket (described in IC 3-11-2-6), the party or
 19 candidate is listed after the parties described in subdivisions (1),
 20 (2), and (3).

21 (5) If more than one (1) political party or independent candidate
 22 or ticket described in subdivision (4) qualifies to be on the ballot,
 23 the parties, candidates, or tickets are listed in the order in which
 24 the party filed its petition of nomination under IC 3-8-6-12.

25 (6) A space for write-in voting is placed after the candidates listed
 26 in subdivisions (1) through (5), if required by law. **A space for**
 27 **write-in voting for an office is not required if there are no**
 28 **declared write-in candidates for that office. However,**
 29 **procedures must be implemented to permit write-in voting for**
 30 **candidates for federal offices.**

31 (7) The name of a write-in candidate may not be listed on the
 32 ballot.

33 (h) The names of the candidates grouped in the order established by
 34 subsection (g) must be printed in type with uniform capital letters and
 35 have a uniform space between each name. The name of the candidate's
 36 political party, or the word "Independent", if the:

37 (1) candidate; or

38 (2) ticket of candidates for:

39 (A) President and Vice President of the United States; or

40 (B) governor and lieutenant governor;

41 is independent, must be placed immediately below or beside the name
 42 of the candidate and must be printed in uniform size and type.

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(i) All the candidates of the same political party for election to at-large seats on the fiscal or legislative body of a political subdivision must be grouped together:

- (1) under the name of the office that the candidates are seeking;
- (2) in the party order established by subsection (g); and
- (3) within the political party, in alphabetical order according to surname.

A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) of ANY party for this office.".

(j) Candidates for election to at-large seats on the governing body of a school corporation must be grouped:

- (1) under the name of the office that the candidates are seeking; and
- (2) in alphabetical order according to surname.

A statement reading substantially as follows must be placed immediately below the name of the office and above the name of the first candidate: "Vote for not more than (insert the number of candidates to be elected) candidate(s) for this office.".

(k) The cautionary statement described in IC 3-11-2-7 must be placed at the top or beginning of the ballot label before the first office is listed.

(l) The instructions described in IC 3-11-2-8, IC 3-11-2-10(c), and IC 3-11-2-10(d) may be:

- (1) placed on the ballot label; or
- (2) posted in a location within the voting booth that permits the voter to easily read the instructions.

(m) The ballot label must include a touch sensitive point or button for voting a straight political party or independent ticket (described in IC 3-11-2-6) by one (1) touch, and the touch sensitive point or button must be identified by:

- (1) the name of the political party or independent ticket; and
- (2) immediately below or beside the political party's or independent ticket's name, the device of that party or ticket (described in IC 3-11-2-5).

The name and device of each party or ticket must be of uniform size and type, and arranged in the order established by subsection (g) for listing candidates under each office. The instructions described in IC 3-11-2-10(b) for voting a straight party ticket and the statement concerning presidential electors required under IC 3-10-4-3 may be placed on the ballot label or in a location within the voting booth that

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permits the voter to easily read the instructions.

(n) A public question must be in the form described in IC 3-11-2-15(a) and IC 3-11-2-15(b), except that a touch sensitive point or button must be used instead of a square. Except as expressly authorized or required by statute, a county election board may not print a ballot label that contains language concerning the public question other than the language authorized by a statute.

(o) The requirements in this section:

(1) do not replace; and

(2) are in addition to;

any other requirements in this title that apply to ballots for electronic voting systems.

(p) The procedure described in IC 3-11-2-16 must be used when a ballot label does not comply with the requirements imposed by this title or contains another error or omission that might result in confusion or mistakes by voters.

SECTION 35. IC 3-11-14-22.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 22.5. Whenever an electronic voting system is used in a precinct and a ballot form prescribed by this title refers to a voting mark, the county election board shall approve voting instructions indicating that a specific type of marking device is employed on the system to indicate a vote.**

SECTION 36. IC 3-11-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. Each application for certification of a voting system shall be accompanied by a fee of one thousand five hundred dollars (\$1,500). **All fees collected under this section shall be deposited with the treasurer of state in the voting system technical oversight program account established by IC 3-11-17-6.**

SECTION 37. IC 3-11-17-6, AS ADDED BY P.L.221-2005, SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The voting system technical oversight program account is established with the state general fund to provide money for:

(1) administering and enforcing IC 3-11-7, IC 3-11-7.5, IC 3-11-15, IC 11 3-11-16, and this chapter **by the secretary of state and the election division; and**

(2) **the investigation by the secretary of state of alleged violations of this title.**

(b) The election division shall administer the account. With the approval of the budget agency, funds in the account are available to

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1 augment and supplement the funds appropriated to the **secretary of**
 2 **state or the** election division for the purposes described in this section.

3 (c) The expenses of administering the account shall be paid from the
 4 money in the account.

5 **(d) The account consists of the following:**

6 (1) All civil penalties collected under this chapter.

7 **(2) Fees collected under IC 3-11-15-4.**

8 **(3) Contributions to the account made in accordance with a**
 9 **settlement agreement executed with a voting system vendor.**

10 **(e) Money in the account at the end of a state fiscal year does not**
 11 **revert to the state general fund.**

12 **(f) All money in the account is continuously appropriated for the**
 13 **purposes specified in subsection (a).**

14 SECTION 38. IC 3-11.5-5-14, AS AMENDED BY P.L.198-2005,
 15 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2007]: Sec. 14. (a) This section applies to the counting of
 17 write-in absentee ballots for:

18 (1) a federal office received under 42 U.S.C. 1973ff; and

19 (2) a federal office, state office, or public question under
 20 IC 3-11-4-12(a).

21 (b) If a voter writes an abbreviation, a misspelling, or other minor
 22 variation instead of the correct name of a candidate or political party,
 23 that vote shall be counted if the intent of the voter can be determined.

24 (c) If a voter casts a ballot under this section for President or Vice
 25 President and writes in the name of a candidate or political party that
 26 has not:

27 (1) certified a list of electors under IC 3-10-4-5; or

28 **(2) included a list of electors on the declaration of intent to be**
 29 **a write-in candidate filed by a write-in candidate under**
 30 **IC 3-8-2-2.5;**

31 the vote for President or Vice President is void. The remaining votes on
 32 the ballot may be counted.

33 **(d) As required by 42 U.S.C. 1973ff-2(b), and except as provided**
 34 **in this section, an absentee ballot subject to this section shall be**
 35 **submitted and processed in the same manner provided by this title**
 36 **for a regular absentee ballot.**

37 ~~(d)~~ (e) IC 3-12-1-7 applies to a ballot subject to this section.

38 ~~(e)~~ (f) **As required under 42 U.S.C. 1973ff-2(b),** a ballot subject
 39 to this section may not be counted if:

40 (1) the ballot was submitted:

41 **(A) by an overseas voter who is not an absent uniformed**
 42 **services voter; and**

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(B) from within the United States;

(2) the overseas voter's application for a regular absentee ballot was received by the ~~circuit court clerk or county election board of registration~~ less than thirty (30) days before the election;

(3) the voter's completed regular state absentee ballot was received by the ~~circuit court clerk or county election board of registration~~ by the deadline for receiving absentee ballots under IC 3-11.5-4-7; or

(4) the ballot subject to this section was not received by the ~~circuit court clerk or county election board of registration~~ by the deadline for receiving absentee ballots under IC 3-11.5-4-7.

SECTION 39. IC 3-12-2-7.5, AS AMENDED BY P.L.198-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7.5. (a) This section applies to the counting of write-in absentee ballots for:

(1) a federal office received under 42 U.S.C. 1973ff; and

(2) a federal office, state office, or public question under IC 3-11-4-12.

(b) If a voter writes an abbreviation, misspelling, or other minor variation instead of the correct name of a candidate or political party, that vote shall be counted if the intent of the voter can be determined.

(c) If a voter casts a ballot under this section for President or Vice President of the United States and writes in the name of a candidate or political party that has not:

(1) certified a list of electors under IC 3-10-4-5; or

(2) included a list of electors on the declaration for candidacy filed by a write-in candidate under IC 3-8-2-2.5;

the vote for President or Vice President is void. The remaining votes on the ballot may be counted.

(d) As required by 42 U.S.C. 1973ff-2(b), and except as provided in this section, an absentee ballot subject to this section shall be submitted and processed in the same manner provided by this title for a regular absentee ballot.

~~(d)~~ (e) IC 3-12-1-7 applies to a ballot subject to this section.

~~(e)~~ (f) **As required under 42 U.S.C. 1973ff-2(b)**, a ballot subject to this section may not be counted if:

(1) the ballot was submitted:

(A) by an overseas voter who is not an absent uniformed services voter; and

(B) from within the United States;

(2) the overseas voter's application for a regular absentee ballot was received by the county election board less than

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thirty (30) days before the election;

~~(2)~~ (3) the voter's completed regular state absentee ballot was received by the county election board by the deadline for receiving absentee ballots under IC 3-11-10-11; or

~~(3)~~ (4) the ballot subject to this section was not received by the county election board by the deadline for receiving absentee ballots under IC 3-11-10-11.

SECTION 40. IC 3-12-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Each petitioner shall furnish a cash deposit or file a bond with corporate surety to the approval of the court for the payment of all costs of the recount. The minimum amount of the cash deposit or bond is one hundred dollars (\$100). **The maximum amount of the cash deposit or bond may not exceed the amount specified under subsection (b) or (c).**

(b) This subsection applies if, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is not more than one percent (1%) of the total votes cast for all candidates for the nomination or office. If the number of precincts to be recounted exceeds ten (10), the amount of the deposit or bond shall be increased by ten dollars (\$10) for each precinct in excess of ten (10).

(c) This subsection applies if, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is more than one percent (1%) of the total votes cast for all candidates for the nomination or office. If the number of precincts to be recounted exceeds ten (10), the amount of the deposit or bond shall be increased by one hundred dollars (\$100) for each precinct in excess of ten (10).

(d) If a petition is joint, a joint bond may be furnished.

(e) The costs of a recount may include the following:

(1) Compensation of recount commissioners.

(2) Compensation of additional employees required to conduct the recount, including overtime payments to regular employees who are eligible to receive such payments.

(3) Postage and telephone charges directly related to the recount.

(f) The costs of a recount may not include the following:

(1) General administrative costs.

(2) Security.

(3) Allowances for meals or lodging.

(g) If the recount results in a reduction of at least fifty percent (50%) but less than one hundred percent (100%) of the margin of the total

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certified votes, the petitioner shall receive a refund of that percentage of the unexpended balance. If after a recount, it is determined that a petitioner has been nominated or elected, the deposit or the bond furnished by that petitioner shall be returned to that petitioner in full.

(h) Any unexpended balance remaining in a deposit after payment of all costs of the recount and the refund, if a refund is made, shall be deposited in the county general fund.

SECTION 41. IC 3-13-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Except as provided in section 18 or 20 of this chapter **or IC 3-10-8-7.5**, this chapter applies to the filling of a candidate vacancy that arises for any reason if the vacancy leaves a major political party without a candidate for the office and occurs before the thirtieth day before a general, special, or municipal election.

SECTION 42. IC 3-13-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **Except as provided in IC 3-10-8-7.5**, a candidate vacancy for United States Representative shall be filled by a caucus comprised by the precinct committeemen of the political party whose precincts are within the congressional district.

SECTION 43. IC 3-13-1-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10.5. (a) A person who wishes to be a candidate for appointment to fill a candidate vacancy under this chapter must file a declaration of candidacy on a form prescribed by the commission with:

(1) the chairman of the caucus **or committee conducting a meeting under this chapter**; and

(2) the official who is required to receive a certificate of candidate selection following the caucus under section 15 of this chapter; at least seventy-two (72) hours before the time fixed for the caucus **or committee meeting**.

(b) A candidate's declaration of candidacy must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the declaration of candidacy. If there is a difference between the name on the candidate's declaration of candidacy and the name on the candidate's voter registration record, the officer with whom the declaration of candidacy is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's declaration of candidacy.

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SECTION 44. IC 3-13-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) At a meeting called under section 7 of this chapter, the eligible participants shall:

- (1) establish the ~~caucus~~ rules of procedure **for the caucus or meeting**, except as otherwise provided in this chapter; and
- (2) select, by a majority vote of those casting a vote for a candidate, a person to fill the candidate vacancy described in the call for the meeting.

(b) If more than one (1) person seeks to fill the vacancy, the selection shall be conducted by secret ballot.

SECTION 45. IC 3-13-1-21 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21. (a) This section applies to a certificate of candidate selection filed under section 15 or 20 of this chapter.**

(b) To enforce the requirements of IC 3-5-4-1.9, the election division, a circuit court clerk, or any other official responsible for receiving a certificate of candidate selection may not receive a filing of a certificate of candidate selection if:

- (1) a notice of a caucus or meeting;**
- (2) a declaration of candidacy filed by the individual selected as the candidate; or**
- (3) the certificate of candidate selection;**

is or was offered to be filed after the deadline for the filing provided by this chapter.

SECTION 46. IC 3-13-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The state chairman **(or a person designated by the state chairman)** shall preside over a caucus meeting held under this chapter.

(b) A person who desires to be a candidate to fill a vacancy under this chapter must file:

- (1) a declaration of candidacy with the chairman of the caucus; and
- (2) a statement of economic interests under IC 2-2.1-3-2 with the secretary of the senate or principal clerk of the house of representatives;

at least seventy-two (72) hours before the time fixed for the caucus.

(c) In addition to the procedures prescribed by this chapter, the chairman and precinct committeemen may adopt rules of procedure that are necessary to conduct business.

SECTION 47. IC 3-14-2-1, AS AMENDED BY P.L.103-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. A person who knowingly does any of the

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following commits a Class D felony:

- (1) Conspires with an individual for the purpose of encouraging the individual to submit a false application for registration.
- (2) Conspires with an individual for the purpose of encouraging the individual to vote illegally.
- (3) Pays or offers to pay an individual for doing any of the following:
 - (A) Applying for an absentee ballot.
 - (B) Casting an absentee ballot.
 - (C) Registering to vote.
 - (D) Requesting that another individual sign a petition to permit a candidate or a public question to be placed on the ballot at an election if the payment is based on the number of signatures obtained on petitions by the individual.**
 - ~~(D)~~ (E) Voting.
- (4) Accepts the payment of any property for doing any of the following:
 - (A) Applying for an absentee ballot.
 - (B) Casting an absentee ballot.
 - (C) Registering to vote.
 - (D) Requesting that another individual sign a petition to permit a candidate or a public question to be placed on the ballot at an election if the payment is based on the number of signatures obtained on petitions by the individual.**
 - ~~(D)~~ (E) Voting.

SECTION 48. IC 36-2-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) The auditor may administer the following:

- (1) Oaths necessary in the performance of the auditor's duties.
- (2) The oath of office to an officer who receives the officer's certificate of appointment ~~or election~~ from the auditor.
- (3) Oaths relating to the duty of an officer who receives the officer's certificate of appointment ~~or election~~ from the auditor.
- (4) The oath of office to a member of the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).

(b) The auditor may take acknowledgments of deeds and mortgages executed for the security of trust funds the auditor is required to lend.

SECTION 49. IC 36-5-1-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10.1. (a) Except as provided in subsection (g), if the county executive makes the findings required by section 8 of this chapter, it may adopt an ordinance

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incorporating the town. The ordinance must:

(1) provide that:

(A) all members of the town legislative body are to be elected at large (if the town would have a population of less than three thousand five hundred (3,500)); or

(B) divide the town into not less than three (3) nor more than seven (7) districts; and

(2) direct the county election board to conduct an election in the town on the date of the next general or municipal election to be held in any precincts in the county.

An election conducted under this section must comply with IC 3 concerning town elections. ~~If on the date that an ordinance was adopted under this section, absentee ballots for a general or municipal election have been delivered under IC 3-11-4-15 for voters within a precinct in the town, is not later than June 1 of a general or municipal election year,~~ the election must be conducted on the date of the next general or municipal election held in any precincts in the county after the election for which absentee balloting is being conducted. However, a primary election may not be conducted before an election conducted under this section, regardless of the population of the town.

(b) Districts established by an ordinance adopted under this section must comply with IC 3-11-1.5.

(c) If any territory in the town is not included in one (1) of the districts established under this section, the territory is included in the district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

(d) If any territory in the town is included in more than one (1) of the districts established under this section, the territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

(e) Except as provided in subsection (f), an ordinance adopted under this section becomes effective when filed with:

(1) the office of the secretary of state; and

(2) the circuit court clerk of each county in which the town is located.

(f) An ordinance incorporating a town under this section may not

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1 take effect during the year preceding a year in which a federal
 2 decennial census is conducted. An ordinance under this section that
 3 would otherwise take effect during the year preceding a year in which
 4 a federal decennial census is conducted takes effect January 2 of the
 5 year in which a federal decennial census is conducted.

6 (g) Proceedings to incorporate a town across county boundaries
 7 must have the approval of the county executive of each county that
 8 contains a part of the proposed town. Each county that contains a part
 9 of the proposed town must adopt identical ordinances providing for the
 10 incorporation of the town.

11 SECTION 50. THE FOLLOWING ARE REPEALED [EFFECTIVE
 12 UPON PASSAGE]: IC 3-5-4-6; IC 3-11-3-4; IC 3-11-8-6.5;
 13 IC 3-11-11-1.5; IC 3-11-11-1.6.

14 SECTION 51. [EFFECTIVE JULY 1, 2007] (a) **The definitions in**
 15 **IC 3-5-2 apply throughout this SECTION.**

16 (b) **An envelope printed before July 1, 2007, in conformity with**
 17 **IC 3-11-10-8, before its amendment by this act, may continue to be**
 18 **used by a county election board until December 31, 2007. An**
 19 **envelope used under IC 3-11-10-8 after December 31, 2007, must**
 20 **comply with IC 3-11-10-8, as amended by this act.**

21 (c) **This SECTION expires December 31, 2008.**

22 SECTION 52. **An emergency is declared for this act.**

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